IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

S.B. CIVIL WRIT PETITION NO.1605/2007.

Kumari Manu Meena
Vs.
Principal Kanoria PG Mahila Mahavidyalaya Jaipur.

Date of Order : 24/8/2007.

**HON'BLE MR.JUSTICE MOHAMMAD RAFIQ**

Shri Vikas Jain for the petitioner.
Shri Narendra Kumar Sharma for the respondents.

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BY THE COURT:-

Heard learned counsel for the parties.

The petitioner has filed this petition with prayer that respondent-University be directed to permit him to appear in Part-II of BA Examination and be further permitted to appear in due paper of compulsory English of Part-I with that examination and the order passed by the respondents On 2/1/2007 whereby the permission to appear in the examination was denied to the petitioner be quashed.

The petitioner has contended that he had cleared Part-I examination of BA itself except Compulsory English from the University of Kota result of which was declared in July 2006. The total duration of BA study course of three years but in between her father was transferred from Kota to

Jaipur because of unavoidable circumstances, family has to shift to Jaipur. The petitioner on her application was admitted to Kanodiya P.G. Mahila Mahavidyalaya in IInd year of BA. That college is affiliated to the University of Rajasthan. The petitioner's examination form was also accepted by the college with the requisite fee in the month of September, 2006. Petitioner was permitted to appear in practical examination which was conducted on 15/3/2007. When the examinations were scheduled to take place on 143/2007 it was at this stage that the petitioner was informed that admission card by the college has not been issued by the University and a letter to this effect was addressed to the petitioner by the University on 2/1/2007 which is impugned in this writ petition.

This Court while issuing notices of the writ petition directed the respondents to provisionally permit the petitioner to appear in BA Part-II examination with a further direction that her result may not be declared. Subsequently when the matter was listed before the court on 31/7/2007, respondents

were directed to bring result of the petitioner under a sealed cover which has been produced by the respondents today in court. The result indicates that petitioner has passed not only BA Part-II Examination but also the due compulsory paper of English.

Learned counsel for the petitioner submits that respondents are taking a very rigid and hyper technical interpretation of Ordinances 86 and 86B of the University Ordinance. He in this connection referred to the Note 1 of Ordinance 86 which inter-alia provided that in exceptional circumstances for reasons of health, transfer of guardian (or permanent change of residence of whole family to Rajasthan), Inter-University migrations to the M.B.B.B. course would be permitted. He cited the judgment of this Court in State of Rajasthan and another Vs. Praga Ram : 2002 W.L.C. (Raj.) UC 241 in which in similar circumstances, when a candidate was allowed to appear in the examination under the orders of the court and when ultimately he was found to pass the examination of BSTC Course, he was allowed to retain the result.

On the other hand, Shri Narendra Kumar Sharma, learned counsel appearing for the University opposed the writ petition and argued that according to Ordinance 86B, if a candidate is allowed to appear in BA Part-II Examination, yet he has to pass due compulsory papers of BA Part-I Examination from the University from which he has migrated. It has been argued that petitioner should be required to clear the Compulsory paper of English from Kota University so as to be eligible to appear in BA Part-II Examination of the University of Rajasthan. Learned counsel for the University in this connection cited judgment of this Court in Vinod Kumar Jakhar Vs. The Vice-Chancellor University of Rajasthan ands ors (SBCWP No.5835/2006) decided by this Court on 13/11/2006.

Having heard learned counsel for the parties and perused the material on record as well as the case law cited at the bar, I find that the fact is that petitioner did appear under the orders of the court not only in the course of BA Part-II Examination but also in due paper of compulsory

subject of English and has cleared in all of them a fate accomplish. It has also not been denied that admission was granted to the petitioner in the college which is affiliated to the University of Rajasthan. Now, at this stage when petitioner is studying in BA Part-III Examination, Final Year of BA, requiring her to again appear and clear due paper of compulsory paper of English of BA Part-I from Kota University, would be too harsh upon the petitioner. The judgment of Vinod Kumar Jakhar supra cited by the learned counsel for the University is distinguishable because in that case whatever facts are narrated in the judgment, the candidate failed in all the compulsory papers of BA Part-I Examination when he appeared in such examination in the earlier University Bikaner. Here, only due compulsory paper of English was not cleared by the petitioner which has also now been cleared by her though under the orders of this Court.

In the circumstances therefore requiring the petitioner to revert back to Part-I of BA Examination would only result in wasting her two previous

academic years.

In the facts of the case therefore, the writ petition is allowed and the respondents are directed to treat the admission of the petitioner to have been regularised and declare the result of the petitioner of BA Part-II Examination and also permit her to appear in BA Part-III examination.

Learned counsel for the University at this stage insisted that petitioner be required to produce the migration certificate from the Kota University. Tough, there is no specific averment to this effect in reply, if petitioner has not so far produced the migration certificate from Kota University, she may do so within two months from today.

**(MOHAMMAD RAFIQ), J.**

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